



1941

Book Reviews

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Recommended Citation

Taylor, Orba F.; Sharp, Maurine; and Tincher, Marvin M. (1941) "Book Reviews," *Kentucky Law Journal*: Vol. 29 : Iss. 2 , Article 16.
Available at: <https://uknowledge.uky.edu/klj/vol29/iss2/16>

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BOOK REVIEWS

STUDIES IN THE ADEQUACY OF THE CONSTITUTION, by James Barclay Smith, J. S. D., Parker and Baird Company, Los Angeles, California, 1939, pages i-xv, 1-359.

In Chapter 1, Limitations Upon Government Competition, Professor Smith lays the foundation for the succeeding chapters. The general theme of the book is the extent to which government can go in economic interests and internal affairs beyond direct authorization. While the approach is loose, historical, and philosophical, and no constitutional lawyer worth his salt would depend on the author's analysis, the attempt to grapple with fundamental issues is stimulating.

Chapter 2, Distribution Through Classification, is devoted to an analysis, the purpose of which is to demonstrate that the regulation of child labor may be done through the taxing power of the federal government *in lieu* of a constitutional amendment.

In Chapter 3, The Protective Function of the Police Power or Private Property Rights, Professor Smith gives a philosopher's grip to the problem with a liberal sprinkling of Supreme Court cases. One might disagree with his classification of the cases, but the reasonableness of his analysis is plainly sociological with legalism being at a minimum. Smith discusses frankly what every lawyer knows but hardly admits, i.e., legal differences are only distorted similarities. In discussing the public utility function as an element in price control, a clear account is given of the various bases for rate-making. In general a case is made out for prudent, or what the author prefers to term reasonable investment. The difficulty is in separating the author's economics from his understanding of what the law is upon the subject. In the chapter on the commerce clause Smith grapples with problems which are much more ambitious to other commentators. His terseness, however, does give perspective of understanding to commerce cases which, in a sense, is the reason for his book. In discussing judicial review of lower court and administrative action, the attempt is made to demonstrate that a trial of the trial is sufficient on the theory that the upper court is judging primarily proper results and secondarily trial procedure. "If the cases as a whole mean anything, it is that a correct administrative finding upon a fair hearing will be upheld, and that a wrong finding under an unfair hearing will be set aside." Smith sagely points out that each commission may command its own authority which in the last analysis is anyone's ultimate test. But to the reviewer general acceptance of a commission's authority is not the law despite the controlling effect of such acceptance. It is a moot question whether abdication of the legislature, the executive, or the courts will result in public accountability. Exploitation is without doubt as certain as public accountability. In the concluding chapter on The

Federalization of the Causes of Action, Smith passes some fine moral and social judgments on the operation of various rules of conflicts of laws by looking at the results of the conflicts. A call is made for a constructive and responsible application of the full faith and credit laws of the federal constitution.

Besides a table of cases, there is a table of constitutions and statutes as well as a bibliography and index. The author writes in an ethereal style which, while perhaps necessary to grapple with the general issues raised, is difficult of comprehension by the average reader. Usually at the beginning of each chapter a series of unusual words braces the reader for entrance into the author's argument.²

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YOUR FEDERAL CIVIL SERVICE. James C. O'Brien and Philip P. Marenberg. Funk & Wagnalls Co., New York. 1940. Pp. v-501. \$2.50.

This book contains the answers to all the questions which might reasonably be asked concerning our Federal Civil Service. It begins with a description of the type of government jobs coming under civil service, and continues, in order, with the recruiting for the jobs, the application for the examination, the actual examination (including the written test, education and experience ratings, oral examination and personal investigation), the certification to the job, appeals, veterans' preferences and retirement benefits.

In the chapters on the application, the importance of each question is pointed out and specific instances discussed illustrating the advantages to the applicant of carefully, fully and accurately answering each question, and of filing the application as soon as possible after the announcement rather than waiting until the closing date. The book shows how it is possible for the applicant to increase the number of registers on which his name may appear by the manner in which he fills out the application form, thus increasing his chances of appointment. The authors discuss and illustrate the errors most commonly made by applicants in this important step in securing a Federal job.

Sample tests of the most popular examinations, such as stenographer-typist and substitute post office clerk and carrier, are given in detail, but the book is also full of valuable suggestions for those seeking positions classed as professional and scientific. The discussion is general enough to answer questions which might be asked by an architect or a day laborer, and it is written in a manner which should make it interesting and understandable for either. In the appendix is a table giving a list of the examinations from which appointments were made for the fiscal year 1939 and the entrance salaries paid the appointees.

This is a book which should not only be read by every person

²Decorticate, acharnement, anagogical, anosmia, embrocate, demotics, etc., are a few examples.

desiring a Government job, but by every American citizen as well. It explains the rules by which the Commission seeks to secure the best qualified persons for the public services and the efforts being made to be fair to all applicants. It satisfactorily explains many puzzling facts, such as that an applicant may have a relative standing of 48 on an eligible register at one time, a few months later a standing of 22, and still later be 37th on the same register.

MAURINE SHARP

POPE'S DIGEST, 1815. By Francis S. Philbrick. Springfield: Illinois State Historical Library. Two volumes. Volume I, 1938. Pp. lxxiv, 356. Volume II, 1940. Pp. v, 507. \$5.00 per set.

This set comprises volumes XVIII and XXX of the Illinois Historical Collections, and contains a reprint of the first digest of the statutes of Illinois Territory.

In a special introduction to volume I Professor Philbrick gives an admirable historical account of the compilation of Pope's Digest of the laws of Illinois Territory, together with a short biographical sketch of the compiler, Nathaniel Pope. Since Illinois adopted in 1812 the laws of Indiana Territory which had been revised and codified in 1807, Pope's task was not so great as it might otherwise have been. This fact does not, however, detract from the credit he deserves for doing that which he was set to do—"to present the law as it existed at the date of his compilation." Though his digest may have left much to be desired, it was certainly a standard for its day. In the words of Professor Philbrick, "even today we have progressed, in the art of statutory compilation, so very little toward the ideals of authenticity, clarity, and accessibility that the defects of Pope's work are still characteristic of similar compilations in most of our states."¹

Inasmuch as the statutes of Illinois have gone through a number of subsequent revisions, as briefly sketched in the Introduction, the chief value of these volumes will be their historical interest.

MARVIN M. TINCHER

¹ P. xviii.